

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

CRIMINAL PETITION No.1204 OF 2023

Between:

Dr. Immadisetty Maruthi Prasad
... Petitioner/Accused

AND

1. The State of Telangana
...Respondent/complainant
2. Shravan Gutta
...Respondent/De-facto complainant

DATE OF JUDGMENT PRONOUNCED: 06.02.2023
Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|----------------------------------------------------------------------------|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRIMINAL PETITION No.1204 OF 2023

% Dated 06.02.2023

Dr. Immadisetty Maruthi Prasad
... Petitioner/Accused

AND

1. The State of Telangana
...Respondent/complainant
2. Shravan Gutta
...Respondent/De-facto complainant

! Counsel for the Petitioner: Ms. Sowmya Sanisetty

^ Counsel for the Respondent: Learned Additional Public
Prosecutor-for Respondent No.1

>HEAD NOTE:
? Cases referred

THE HONOURABLE SRI JUSTICE K. SURENDER**CRIMINAL PETITION No.1204 OF 2023****ORDER:**

This Criminal Petition is filed under Section 482 Cr.P.C., by the petitioners/accused to quash Crime No.1703 of 2022 dated 27.10.2022 on the file of the Station House Officer, LB Nagar Police Station, Rachakonda District including the endorsement "permitted" dated 21.10.2022 ordered by the learned II Additional Metropolitan Magistrate cum Additional Junior Civil Judge at L.B. Nagar, Cyderabad. The offences alleged against the petitioner herein are under Sections 504 and 506 of the Indian Penal Code.

2. Heard learned counsel for the petitioner/accused and learned Additional Public Prosecutor for the State.

3. The respondent No.2 filed a complaint with the police, L.B.Nagar against the petitioner/accused. In the complaint, it is mentioned that the respondent No.2 was working from Hyderabad and Vijayawada. He developed a website <http://drmaurthiprasad.com> for the petitioner but payment was not made by the petitioner herein towards the agreed

development costs. It is further alleged that petitioner was harassing by making phone calls to the CEO and MD Priyanka, who is the citizen of Singapore.

4. Since the offences alleged against the petitioner/accused are non-cognizable, the police made a requisition to the concerned Magistrate for grant of permission to investigate into the crime. The learned Magistrate having received the requisition of the police dated 17.10.2022 passed order as “permitted” on 21.10.2022. Having received the said permission from the learned Magistrate, the FIR was registered on 27.10.2022 for the said offences.

5. Learned counsel appearing for the petitioner/accused submitted that the FIR has to be quashed on two grounds:

- a) It is for the informant to approach the learned Magistrate to seek permission.
- b) The learned Magistrate has to give reasons for according such sanction.

6. The learned counsel for the petitioner/accused relied on the judgment of the Hon’ble High Court of Karnataka reported in 2019 SCC Online Kar 2708 in *Veggeppa Gurulinga Jangaligi*

Vs State of Karnataka and also judgment by this Court reported in 2019 SCC Online TS 288 in *Rajesh Kumar Vs State of Telangana*. The learned counsel for the petitioner argues that as per the judgment in *Veggeppa Gurulinga Jangaligi's* case, the police cannot seek permission but the informant can seek permission from the concerned Magistrate. Further Section 155(1) and 155(2) of the Code of Criminal Procedure has to be read as one and the correct interpretation is that the police cannot make any requisition for permission to investigate the case and the informant has to be sent to the learned Magistrate to get permission.

7. Learned counsel for the petitioner further submits that it is clearly mentioned in the judgment of Karnataka High Court in *Veggeppa Gurulinga Jangaligi Vs State of Karnataka* that it is for the informant / complainant to get permission from Magistrate. However, learned counsel submits that there is no such specific interpretation of the Court in *Rajesh Kumar's* case.

8. According to Section 155(1) of the Code of Criminal Procedure, any information received regarding non-cognizable

offence, has to be entered into a book as prescribed by the State Government and also refer the informant to the Magistrate. Under Section 155(2) of the Code of Criminal Procedure, the police officer is prohibited from investigating into the non-cognizable offence without the order of the Magistrate having power to try such case or commit the case for trial.

9. The wording in Section 155(1) of the Cr.P.C. that the informant can be referred to the Magistrate by the concerned police does not mean that the informant has to seek permission from the concerned Magistrate to enable the police to investigate the case. Section 155(2) of the Cr.P.C. enabling the police officer to investigate with the permission of a Magistrate does not mean that the informant should be sent to the Magistrate and permission has to be sought by the said informant. If such was the intent of the legislature, procedure would have been to file a private complaint before the concerned Magistrate. An aggrieved person/victim cannot be made to go around police and Courts to get his grievance redressed. However, the complainant can also approach the concerned Magistrate for permission.

10. In accordance with Section 155(2) of the Cr.P.C., the police officer is always empowered to approach the concerned Magistrate and seek permission or orders for investigating into such non-cognizable offence. In the present case, the police officer has rightly made a requisition to the concerned Magistrate by accepting the complaint and seeking permission as a non-cognizable offence is made out. However, the learned Magistrate without giving reasons has endorsed as permitted.

11. The reason for seeking permission of a Magistrate to enable the police to investigate into non-cognizable offence is for the purpose of the competent Magistrate going through the contents of the complaint and if the offence is made out may permit such investigation. In the present case, the Magistrate has not given any reasons as to why the police can be permitted to investigate into the matter. No elaborate reasons are necessary, however the order should atleast indicate that the Magistrate has gone through the complaint and satisfied himself to grant permission

12. Learned Additional Public Prosecutor submitted that the Orders cannot be passed without hearing the respondent No.2.

Since this Court finds that the permission granted by the learned Magistrate is not in accordance with law and liable to be set aside, notice to the respondent No.2 is not necessary. The Order of the learned Magistrate in permitting the investigation without giving any reason shows non-application of mind and the permission granted on 21.10.2022 has to be set aside. Accordingly, the permission granted by the learned Magistrate on 21.10.2022 is hereby set aside. However, the Magistrate is not precluded from granting permission for reasons to be recorded for according permission.

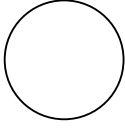
13. With the above observations, the Criminal Petition is disposed of.

As a sequel, the miscellaneous Petitions, pending if any, shall stand closed.

K.SURENDER, J

Date: 06.02.2023

Note: L.R. Copy to be marked
B/o. TMK



THE HONOURABLE SRI JUSTICE K. SURENDER

CRIMINAL PETITION No.1204 OF 2023

Dt: 06.02.2023

TMK